

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

JAMES E. HORVATH

PLAINTIFF

VS.

CASE NO. 4:07-CV-00113 GTE/JTR

JIM HALL, Pottsville Police Officer, et al.

DEFENDANTS

ORDER ADOPTING RECOMMENDED PARTIAL DISPOSITION

The Court has reviewed the Magistrate's Proposed Findings of Fact and Recommended Partial Disposition. Plaintiff has not filed objections, *per se*, to the recommended disposition. Instead, he has filed a Motion to Dismiss requesting the voluntary dismissal of Defendants Judge Kennedy, Judge Bourne, and Prosecutor Coutts. If granted, the voluntary dismissal would be without prejudice.

Magistrate Ray, however, has recommended the dismissal with prejudice of said Defendants. As cause therefore, Magistrate Ray correctly observes that Defendants Kennedy, Bourne and Coutts are entitled to absolute immunity from suit. Absolute immunity is not a defense; rather, it protects those entitled to its protection from suit itself. A defendant who is entitled to absolute immunity should be free from the burden of defending himself. Accordingly, the Court concludes that it would be a waste of judicial resources and potentially prejudicial to said Defendants not to enter a dismissal with prejudice, as recommended.

Finally, Plaintiff has filed a Motion for Service that provides the full name and service address for the John Doe Defendant he originally named in this action. The Court finds good cause for granting that motion.

Accordingly,

IT IS HEREBY ORDERED THAT:

1. Plaintiff James E. Horvath's Motion to Dismiss Claims (Docket No. 15) is DENIED solely to the extent he seeks a dismissal without prejudice.
2. The Court adopts the Recommended Partial Disposition (Docket no. 13) in its entirety. Defendants Kennedy, Bourne and Coutts are hereby DISMISSED WITH PREJUDICE.
3. The Court certifies, pursuant to 28 U.S.C. § 1915A, that an *in forma pauperis* appeal from this Order would not be taken in good faith.
4. Plaintiff's Motion for Service (docket entry #16) is GRANTED, and the Clerk is directed to amend the docket sheet to reflect that Defendant John Doe is Defendant Joann Demmitt, London Police Chief.
5. The Clerk is directed to prepare a summons for Defendants Hall and Demmitt, and the U.S. Marshal is directed to serve the summons, Complaint (docket entry #2), Amended Complaint (docket entry #11), and Affidavit (docket entry #12) upon them without prepayment of fees and costs or security therefor.

IT IS SO ORDERED this 9th day of May, 2007.

/s/ Garnett Thomas Eisele
UNITED STATES DISTRICT JUDGE